

JIM IRVIN  
COMMISSIONER - CHAIRMAN  
RENZ D. JENNINGS  
COMMISSIONER  
CARL J. KUNASEK  
COMMISSIONER



JACK ROSE  
EXECUTIVE SECRETARY

ARIZONA CORPORATION COMMISSION

DATE: OCTOBER 16, 1998

DOCKET NO.: T-03599A-98-0410

TO ALL PARTIES:

Enclosed please find the recommendation of Hearing Officer Jane Rodda. The recommendation has been filed in the form of an Order on:

UNI-TEL COMMUNICATIONS GROUP, INC.  
(CC&N/RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Hearing Officer by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

OCTOBER 26, 1998

The enclosed is NOT an order of the Commission, but a recommendation of the Hearing Officer to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

OCTOBER 27, 1998 and OCTOBER 28, 1998

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250.

  
JACK ROSE  
EXECUTIVE SECRETARY

1                                   **BEFORE THE ARIZONA CORPORATION COMMISSION**

2       JIM IRVIN  
          COMMISSIONER - CHAIRMAN  
3       RENZ D. JENNINGS  
          COMMISSIONER  
4       CARL J. KUNASEK  
          COMMISSIONER  
5

6       IN THE MATTER OF THE APPLICATION OF )  
      UNI-TEL COMMUNICATIONS GROUP, INC. )  
7       FOR A CERTIFICATE OF CONVENIENCE )  
      AND NECESSITY TO PROVIDE )  
8       COMPETITIVE INTERLATA/INTRALATA )  
      RESOLD TELECOMMUNICATIONS )  
9       SERVICES EXCEPT LOCAL EXCHANGE )  
      SERVICES. )  
10      \_\_\_\_\_ )

DOCKET NO. T-03599A-98-0410

DECISION NO. \_\_\_\_\_

**ORDER**

11      Open Meeting  
12      October 27 and 28, 1998  
13      Phoenix, Arizona

**BY THE COMMISSION:**

14           Having considered the entire record herein and being fully advised in the premises, the Arizona  
15      Corporation Commission ("Commission") finds, concludes, and orders that:

16                                   **FINDINGS OF FACT**

17           1.     On July 22, 1998, Uni-Tel Communications Group, Inc ("Applicant") filed with the  
18      Commission an application for a Certificate of Convenience and Necessity ("Certificate") to provide  
19      resold telecommunications service in the State of Arizona.

20           2.     In Decision No. 58926 (December 22, 1994), the Commission found that resold  
21      telecommunications providers ("resellers") were public service corporations subject to the jurisdiction  
22      of the Commission.

23           3.     In Decision No. 59124 (June 23, 1995), the Commission adopted A.A.C. R14-2-1101  
24      through R14-2-1115 to regulate resellers.

25           4.     Applicant is an Indiana corporation that has been qualified to do business in Arizona  
26      since 1998.  
27  
28

1           5.     Applicant is a switchless reseller that purchases telecommunications services and plans  
2 to resell the services of Frontier.

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4           6.     On August 7, 1998, the Commission's Utilities Division Staff ("Staff") filed a Staff  
5 Report.

6           7.     The Staff Report stated that Applicant is a start-up company and provided internally  
7 prepared financial statements for the six month period ended June 30, 1998. The financial statements  
8 indicated that the company had a net loss of \$14,219 on sales of \$71,700. In Staff's opinion,  
9 Applicant was thinly capitalized with \$20,000. Based on the foregoing, Staff believed that Applicant  
10 did not appear to have adequate financial resources to make necessary plant additions or incur  
11 operating losses. Accordingly, Staff recommended that pursuant to A.A.C. R14-2-1105.D, Applicant  
12 maintain for a minimum of one year, an escrow account equal to the total amount of any  
13 prepayments, advances and deposits that Applicant may collect from its customers as a condition of  
14 certification. In the alternative, Applicant could file a letter stating that it does not currently charge  
15 customers any prepayments, advances or deposits, and does not intend to do so in the future. If at  
16 some future date Applicant desired to charge customers any prepayments, advances or deposits, it  
17 must file information with Staff that demonstrates Applicant's financial viability. Staff would review  
18 the information and provide Applicant its decision concerning financial viability within 30 days of  
19 receipt of the information. Staff believes that if Applicant experiences financial difficulty, there  
20 should be minimal impact to its customers. Customers are able to dial another reseller or facilities-  
21 based provider, and may permanently switch to another company without forfeiting any prepayment,  
22 advance or deposit.

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24  
25           8.     The Staff Report stated that Applicant has no market power and the reasonableness of  
26 its rates would be evaluated in a market with numerous competitors.

27           9.     Staff recommended that:

28           (a) Applicant's application for a Certificate should be approved subject to A.A.C. R14-2-

1106.B;

- (b) Applicant's intrastate toll service offerings should be classified as competitive pursuant to A.A.C. R14-2-1108;
- (c) Applicant's competitive services should be priced at the effective rates set forth in Applicant's tariffs and the maximum rates for these services should be the maximum rates proposed by Applicant in its tariffs. The minimum rates for Applicant's competitive services should be Applicant's long run incremental costs of providing those services as set forth in A.A.C. R14-2-1109. Any future changes to the maximum rates in Applicant's tariffs must comply with A.A.C. R14-2-1110;
- (d) Applicant should be required to comply with the Commission's rules and modify its tariffs to conform with these rules, if it is determined that there is a conflict between Applicant's tariffs and the Commission's rules; and
- (e) The application may be approved without a hearing.

10. By Procedural Order dated August 28, 1998, the Commission set a deadline of October 9, 1998 for filing exceptions to the Staff Report; filing a statement concerning prepayments, advances or deposits; requesting that a hearing be set; or requesting intervention as interested parties.

11. No exceptions were filed to the Staff Report, nor did any party request that a hearing be set, nor were any requests for intervention filed with Docket Control.

12. On September 9, 1998, Applicant filed a revision to its tariff that indicated Applicant does not charge customers prepayments, advances or deposits.

#### CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over Applicant and the subject matter of the application.

3. Notice of the application was given in accordance with the law.

4. As conditioned below, the provision of competitive interLATA/intraLATA reseller services in Arizona by Applicant is in the public interest.

5. With the conditions contained herein, Applicant is a fit and proper entity to receive a Certificate for providing competitive interLATA/intraLATA reseller services in Arizona.

6. Staff's recommendations in Findings of Fact No. 9 are reasonable and should be adopted.

**ORDER**

IT IS THEREFORE ORDERED that the application of Uni-Tel Communications Group, Inc. for a Certificate of Convenience and Necessity for authority to provide competitive interLATA/intraLATA resold telecommunications services except local exchange services shall be, and the same is, hereby granted, as limited below.

IT IS FURTHER ORDERED that of Uni-Tel Communications Group, Inc, shall comply with the Staff recommendations set forth in Findings of Fact No. 9.

IT IS FURTHER ORDERED that Uni-Tel Communications Group, shall not be authorized to charge customers any prepayments, advances or deposits. If in the future of Uni-Tel Communications Group, Inc. desires to initiate such charges, it must file information with the Commission that demonstrates the company's financial viability. Staff shall review the information and file its recommendation concerning financial viability within thirty days of receipt of the financial information, for Commission approval.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

COMMISSIONER - CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, JACK ROSE, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_, 1998.

JACK ROSE  
EXECUTIVE SECRETARY

DISSENT \_\_\_\_\_  
JR:dap

1 SERVICE LIST FOR: UNI-TEL COMMUNICATIONS GROUP, INC.  
2 DOCKET NO. T-03599A-98-410  
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